

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: ETHICON, INC.,
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL No. 2327

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER # 79

(Revised Short Form Complaint and Amended Short Form Complaint
re: Addition of Cook Defendants; **Revised** Motion to Transfer MDL)

I recently entered PTO # 13 in the In re: Cook Medical, Inc. Pelvic Repair System Products Liability Litigation, MDL 2440 titled Direct Filing Order; Master Complaint, Short Form Complaint, Amended Short Form Complaint and Master Responsive Pleadings Due Date. As a result, attached are a **revised** (1) Short Form Complaint (Exhibit A); and a **revised** (2) Amended Short Form Complaint (Exhibit B) that reflect the inclusion of defendants from the Cook MDL: Cook Incorporated, Cook Medical Incorporated and Cook Biotech Incorporated (collectively referred to as the “Cook Defendants”).

It is **ORDERED** as follows:

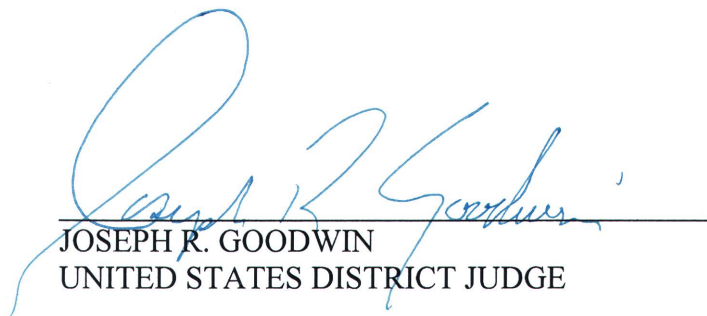
- (1) While PTO ##s 15, 26, 29 and 50 remain in force and effect where applicable, parties filing Short Form Complaints in new cases or Amended Short Form Complaints in existing cases, where appropriate, **must use the revised forms attached to this PTO and located on the court’s website beginning no later than November 21, 2013.**
- (2) To the extent a plaintiff filed a Short Form Complaint or an Amended Short Form Complaint in this MDL before the entry of this order naming one or more of the Cook

Defendants (by writing in or otherwise adding the Cook Defendants on the Short Form or Amended Short Form Complaint), this procedure was improper pursuant to PTOs cited above. Plaintiff must file an Amended Short Form Complaint within thirty (30) days of entry of this order using the court's form referenced above.

- (3) A revised PDF fillable form entitled "Motion to Transfer MDL," which also can be found on the court's website and which enables parties to now transfer their case, where necessary, to any of the six (6) MDLs assigned to me, is attached hereto as Exhibit C and must be used by the parties in place of the previous PDF fillable form.

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:13-cv-28575. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: November 14, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

In Re: Ethicon Inc., Pelvic Repair System Products Liability Litigation
MDL No. 2327

Civil Action No. _____

SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The First Amended Master Complaint in MDL No. 2327 by reference.

Plaintiff(s) further show the court as follows:

1. Female Plaintiff

2. Plaintiff's Spouse (if applicable)

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)

4. State of Residence

5. District Court and Division in which venue would be proper absent direct filing.

6. Defendants (Check Defendants against whom Complaint is made):

☐ A. Ethicon, Inc.

- ☐ B. Ethicon, LLC
- ☐ C. Johnson & Johnson
- ☐ D. American Medical Systems, Inc. (“AMS”)
- ☐ E. Boston Scientific Corporation
- ☐ F. C. R. Bard, Inc. (“Bard”)
- ☐ G. Sofradim Production SAS (“Sofradim”)
- ☐ H. Tissue Science Laboratories Limited (“TSL”)
- ☐ I. Mentor Worldwide LLC
- ☐ J. Coloplast Corp.
- ☐ K. Cook Incorporated
- ☐ L. Cook Biotech, Inc.
- ☐ M. Cook Medical, Inc.

7. Basis of Jurisdiction

- ☐ Diversity of Citizenship
- ☐ Other: _____

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

B. Other allegations of jurisdiction and venue:

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff)

- ☐ Prolift
 - ☐ Prolift +M
 - ☐ Gynemesh/Gynemesh PS
 - ☐ Prosima
 - ☐ TVT
 - ☐ TVT-Obturator (TVT-O)
 - ☐ TVT-SECUR (TVT-S)
 - ☐ TVT-Exact
 - ☐ TVT-Abbrevio
 - ☐ Other
-
-

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products):

- ☐ Prolift
- ☐ Prolift +M
- ☐ Gynemesh/Gynemesh PS
- ☐ Prosima
- ☐ TVT
- ☐ TVT-Obturator (TVT-O)
- ☐ TVT-SECUR (TVT-S)
- ☐ TVT-Exact

☐ TVT-Abbrevio

☐ Other

10. Date of Implantation as to Each Product:

11. Hospital(s) where Plaintiff was implanted (including City and State):

12. Implanting Surgeon(s):

13. Counts in the Master Complaint brought by Plaintiff(s):

- ☐ Count I – Negligence
- ☐ Count II – Strict Liability – Manufacturing Defect
- ☐ Count III – Strict Liability – Failure to Warn
- ☐ Count IV – Strict Liability – Defective Product
- ☐ Count V – Strict Liability – Design Defect
- ☐ Count VI – Common Law Fraud
- ☐ Count VII – Fraudulent Concealment

- ☐ Count VIII – Constructive Fraud
- ☐ Count IX – Negligent Misrepresentation
- ☐ Count X – Negligent Infliction of Emotional Distress
- ☐ Count XI – Breach of Express Warranty
- ☐ Count XII – Breach of Implied Warranty
- ☐ Count XIII – Violation of Consumer Protection Laws
- ☐ Count XIV – Gross Negligence
- ☐ Count XV – Unjust Enrichment
- ☐ Count XVI – Loss of Consortium
- ☐ Count XVII – Punitive Damages
- ☐ Count XVIII – Discovery Rule and Tolling
- ☐ Other Count(s) (Please state factual and legal basis for other claims below):

s/ _____
Attorney(s) for Plaintiff

Address, phone number, email address and bar information:

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

In Re: Ethicon Inc., Pelvic Repair System Products Liability Litigation
MDL No. 2327

Civil Action No. _____

AMENDED SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The First Amended Master Complaint in MDL No. 2327 by reference.

Plaintiff(s) further show the court as follows:

1. Female Plaintiff

2. Plaintiff's Spouse (if applicable)

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)

4. State of Residence

5. District Court and Division in which venue would be proper absent direct filing.

6. Defendants (Check Defendants against whom Complaint is made):

☐ A. Ethicon, Inc.

- ☐ B. Ethicon, LLC
- ☐ C. Johnson & Johnson
- ☐ D. American Medical Systems, Inc. (“AMS”)
- ☐ E. Boston Scientific Corporation
- ☐ F. C. R. Bard, Inc. (“Bard”)
- ☐ G. Sofradim Production SAS (“Sofradim”)
- ☐ H. Tissue Science Laboratories Limited (“TSL”)
- ☐ I. Mentor Worldwide LLC
- ☐ J. Coloplast Corp.
- ☐ K. Cook Incorporated
- ☐ L. Cook Biotech, Inc.
- ☐ M. Cook Medical, Inc.

7. Basis of Jurisdiction

- ☐ Diversity of Citizenship
- ☐ Other: _____

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

B. Other allegations of jurisdiction and venue:

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff)

- ☐ Prolift
 - ☐ Prolift +M
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 - ☐ Prosima
 - ☐ TVT
 - ☐ TVT-Obturator (TVT-O)
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 - ☐ TVT-Abbrevio
 - ☐ Other
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9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products):

- ☐ Prolift
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- ☐ TVT
- ☐ TVT-Obturator (TVT-O)
- ☐ TVT-SECUR (TVT-S)
- ☐ TVT-Exact

☐ TVT-Abbrevo

☐ Other

10. Date of Implantation as to Each Product:

11. Hospital(s) where Plaintiff was implanted (including City and State):

12. Implanting Surgeon(s):

13. Counts in the Master Complaint brought by Plaintiff(s):

- ☐ Count I – Negligence
- ☐ Count II – Strict Liability – Manufacturing Defect
- ☐ Count III – Strict Liability – Failure to Warn
- ☐ Count IV – Strict Liability – Defective Product
- ☐ Count V – Strict Liability – Design Defect
- ☐ Count VI – Common Law Fraud
- ☐ Count VII – Fraudulent Concealment
- ☐ Count VIII – Constructive Fraud

- ☐ Count IX – Negligent Misrepresentation
- ☐ Count X – Negligent Infliction of Emotional Distress
- ☐ Count XI – Breach of Express Warranty
- ☐ Count XII – Breach of Implied Warranty
- ☐ Count XIII – Violation of Consumer Protection Laws
- ☐ Count XIV – Gross Negligence
- ☐ Count XV – Unjust Enrichment
- ☐ Count XVI – Loss of Consortium
- ☐ Count XVII – Punitive Damages
- ☐ Count XVIII – Discovery Rule and Tolling
- ☐ Other Count(s) (Please state factual and legal basis for other claims below):

s/
Attorney(s) for Plaintiff

Address, phone number, email address and bar information:

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

Exhibit C

IN RE: ETHICON, INC., PELVIC REPAIR
SYSTEM PRODUCTS LIABILITY LITIGATION

MDL No. 2327
Honorable Joseph R. Goodwin

Plaintiff(s),

v.

CASE NO.

Defendant(s).

MOTION TO TRANSFER MDL

COME NOW the plaintiff(s), by and through the undersigned counsel, and move the court to transfer this member case from MDL 2327, In re: Ethicon, Inc., Pelvic Repair System Products Liability Litigation, to:

MDL **Select One:**

Plaintiff(s) herein filed a Complaint or Short Form Complaint in MDL 2327 against Ethicon, Inc., and others. Plaintiff(s) later filed an Amended Short Form Complaint that no longer included Ethicon, Inc. or another named defendant in that litigation; included instead, among others, were the following parties from MDL :

Because Ethicon, Inc. or another defendant named in the Master Complaint, is no longer a named defendant in this member case, Plaintiff(s) respectfully request that the Court: 1) **GRANT** the Plaintiff(s) motion to transfer this civil action from MDL 2327 to _____; and 2) direct the Clerk to disassociate this civil action as a member case in MDL 2327 and re-associate it with MDL _____.

CERTIFICATE OF SERVICE

I hereby certify that on _____, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this member case.
